

110TH CONGRESS  
1ST SESSION

# S. 1006

To amend the Internal Revenue Code of 1986 to deny qualified dividend income treatment to certain foreign dividends.

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IN THE SENATE OF THE UNITED STATES

MARCH 28, 2007

Mr. KERRY introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to deny qualified dividend income treatment to certain foreign dividends.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. CERTAIN FOREIGN DIVIDENDS NOT TREATED**  
4               **AS QUALIFIED DIVIDEND INCOME.**

5       (a) IN GENERAL.—Clause (ii) of section 1(h)(11)(B)  
6       of the Internal Revenue Code of 1986 (relating to certain  
7       dividends excluded) is amended by striking “and” at the  
8       end of subclause (II), by striking the period at the end  
9       of subclause (III) and inserting “, and”, and by adding  
10      at the end the following new subclause:

1 “(IV) any nonqualified dividend  
2 from a foreign corporation.”.

3 (b) NONQUALIFIED DIVIDEND FROM A FOREIGN  
4 CORPORATION.—Paragraph (11) of section 1(h) of such  
5 Code (relating to dividends taxed as net capital gain) is  
6 amended by redesignating subparagraph (D) as subpara-  
7 graph (E) and by inserting after subparagraph (C) the  
8 following new subparagraph:

9 “(D) NONQUALIFIED DIVIDEND FROM A  
10 FOREIGN CORPORATION.—For purposes of sub-  
11 paragraph (B)(ii)(IV), the term ‘nonqualified  
12 dividend from a foreign corporation’ means any  
13 dividend from a foreign corporation if—

14 “(i) any amount is allowable as a de-  
15 duction to any person at any time under  
16 the taxation law of any foreign country (or  
17 any amount is otherwise creditable against  
18 the tax imposed under such law) with re-  
19 spect to such dividend,

20 “(ii) for the taxable year of the cor-  
21 poration in which the distribution is made,  
22 or the preceding taxable year—

23 “(I) such corporation is not  
24 treated as a corporation for purposes  
25 of the taxation laws of any foreign

1 country to which it would be subject  
2 to tax if it were treated as a corpora-  
3 tion,

4 “(II) such corporation is exempt  
5 from tax under the taxation laws of  
6 any foreign country to which (but for  
7 such exemption) it would otherwise be  
8 subject to tax (except for exemption  
9 on the basis of nonresidence, non-  
10 domicile, or similar criteria), or

11 “(III) such corporation is a pas-  
12 sive foreign investment company (as  
13 defined in section 1297 (without re-  
14 gard to subsection (e) thereof)), or

15 “(iii) such dividend is paid with re-  
16 spect to an instrument which is treated as  
17 other than stock (or a similar equity inter-  
18 est) under the taxation laws of any foreign  
19 country with respect to which the payment  
20 is taken into account.”.

21 (c) CONFORMING AMENDMENT.—Subparagraph (C)  
22 of section 1(h)(11) of such Code is amended by striking  
23 clause (iii) and by redesignating clause (iv) as clause (iii).

1 (d) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to dividends received after the date  
 3 of the enactment of this Act.

4 **SEC. 2. MODIFICATION TO THE DEFINITION OF QUALIFIED**  
 5 **FOREIGN CORPORATION.**

6 (a) IN GENERAL.—Clause (ii) of section 1(h)(11)(C)  
 7 of the Internal Revenue Code of 1986 (relating to divi-  
 8 dends on stock readily tradable on United States securities  
 9 market) is amended by striking “by such corporation if  
 10 the stock” and all that follows and inserting “by such cor-  
 11 poration if—

12 “(I) the stock with respect to  
 13 which such dividend is paid is readily  
 14 tradable on an established securities  
 15 market in the United States, and

16 “(II) such corporation is created  
 17 or organized under the laws of a for-  
 18 eign country which has a comprehen-  
 19 sive income tax system which the Sec-  
 20 retary determines is satisfactory for  
 21 the purposes of this paragraph.”.

22 (b) EFFECTIVE DATE.—The amendment made by  
 23 this section shall apply to dividends received after the date  
 24 of the enactment of this Act.

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